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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,194	07/21/2003	Gregory Steintal	018564-007810US	7719
7590 04/01/2005			EXAMINER	
Foley & Lardner 3000 K Street, N.W. Suite 500 Washington, DC 20007			CROSLAND, DONNIE L	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/624,194

Applicant(s)

STEINTHAL ET AL. *AK*

Examiner

DONNIE L. CROSLAND

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1-10-05; 3-8-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

Us 60/477624 do not qualify as prior art under 37 CFR 1.98.

### ***Drawings***

The drawings are objected to because:

Figures 1a and 1b must be distinctly identified as separate figures. The representation of both figures in a single paragraph is improper. Also, these figures are illegible and must be reproduced for clarity.

Figure 2 should not include the surplus material that follows. Such should be placed in the specification.

Figure 3a, Mem for element 40, and D.S.P. for block 20 are not proper descriptions. Such should be spelled out in its entirety for proper understanding of the blocks. The block 35 should be appropriately labeled in accordance with 37 CFR 1.84n,o.

Figure 5 is illegible and the components cannot be clearly identified.

Figures 6, 8 should not include the descriptive material the follows. Such should be in the specification.

Figure 9 include photographs that are illegible. Such should be replaced by drawings that are legible. The descriptive material adjacent the figures should be in the specification.

Figure 19 is improper since it cannot be determined if such is referencing the figure above "Fig. 19" or the figures (a) and (b) beneath the figure 19.

Figure 20 is improper since such is not placed with respect to the figures (a) and (b). It appears that 20(a) and 20(b) should be adjacent the respective figures. The surplus material that follows Fig. 20 should be deleted or placed in the specification.

Figure 21 is improper and the surplus material the follows should be deleted.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract

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on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because language such as the present invention, lines 4 and 6 is improper. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8, 9, 12, 17-20, and 44-46 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jacobsen et al, see figures 4A, 5A, col. 6, lines 21-44, col. 9, lines 8-20, col. 10, lines 45-53, col. 7, lines 5-12, col. 8, lines 37-35, col. 11, lines 40-50, col. 12, lines 11-29, col. 13, lines 55 et seq., col. 14, lines 62 et seq., col. 16.

Claims 1, 2, and 8-10 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Christophersom et al, see figures 1-6, col. 6, lines 2-56, col. 11, lines 31-57, col. 12, lines 45-61.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen.

The power constraints is a matter of choice and would not involve patentable invention. The artisan recognizes the power constraints and 1 miliiwatt is clearly within the capabilities of the skilled artisan. Patentability is not involved in the provision of 1 milli watt of power.

Claims 6, 7, 11, 13-16, and 21-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson in view of Heller et al, cited by applicants.

Jacobson shows the sensor apparatus as pointed out above but fails to suggest for instance the application of power by an external RF field received by an antenna.

Heller shows the sensor apparatus and provides for polymers in columns 30 and 36, and a vibrator in col. 52, and power transmission through an antenna cable, col. 37.

It would have been obvious to one having ordinary skill in the art to provide polymer sensors, vibrator, and the transmission of power through antenna coupling in the sensor apparatus of Jacobson because the specific use of such is suggested by Heller.

The dimension of the apparatus is a matter of choice and would not involve patentable invention. The prior art recognizes the dimension withy respect to the specific application.

With respect to claims 21 and 26, Heller provides for one or more polymer composite sensors.

Claims 36-41 and 43, 47, 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson in view of Johnson et al.

Jacobson fails to mention lifetime of the power supply with respect to various times, exceeds two weeks, exceeds two months, exceeds two years, etc.

The artisan recognizes such as a matter of choice as determined by the design and the criticality of use. For instance the artisan recognizes the various degrees of power constraints as determined by the conditions.

Johnson shows a sensor apparatus and provides for the operating life of a battery, col. 4, lines 40-48.

It would have been obvious to one having ordinary skill in the art to provide an operating time life of a battery, the operating time life being a matter of choice as determined by design.

Patentability is not involved in providing various operating times for a power supply such as a battery.

Claims 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen and Johnson as applied to claim 41 further in view of Heller et al.

Heller shows the polymer sensor as discussed above.

It would have been obvious to one having ordinary skill in the art to provide a polymer sensor in the sensor apparatus of Jacobsen as modified by Johnson because the use and advantages of such a sensor is taught by Heller.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson in view of Heller et al.



See comments above with respect to both Jacobsen and Heller. It would have been obvious to one having ordinary skill in the art to provide polymer sensors in the apparatus of Jacobsen because the specific use of Polymer sensor in a sensor apparatus is taught by Heller. ,

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rogers et al, Kail, IV, Christophersom et al Robarts et al, and Zunti are cited as showing various sensor apparatus for attachment to a person and providing remote external communications.

Darrow et al shows the polymer sensor and Tremblay shows the power transfer through an antenna.

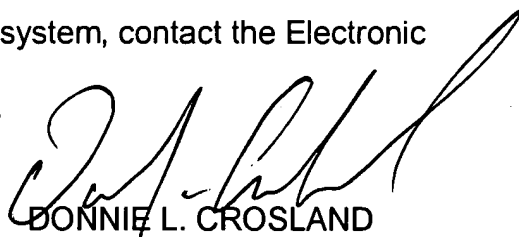
Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is 571-272-2980. The examiner can normally be reached on Mon-Fri, 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFERY HOFSSASS can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dlc

  
DONNIE L. CROSLAND  
Primary Examiner  
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